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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/553,700 | 10/17/2005 | Atsushi Murashima | G0126.0242 | 1998 |
| 32172 7590 03/27/2009 DICKSTEIN SHAPIRO LLP 1177 AVENUE OF THE AMERICAS (6TH AVENUE) NEW YORK, NY 10036-2714 | | | | |
| EXAMINER | | | | |
| ABEBE, DANIEL DEMELASH | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 2626 | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/553,700

Applicant(s)

MURASHIMA, ATSUSHI

Examiner

Daniel D. Abebe

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5, 9, 13, 14 and 23-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 9, 13-14 and 23-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 9, 25, 26 and 29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claims 9 and 29 recite a computer readable medium storing code conversion program to implement the recited functions. The specification on page 14, describes a recording medium where the recording medium includes a radio communication for carrying the computer executable program.

The specification reads

"The recording medium includes a nonvolatile memory, a medium such as a CD-ROM, an FD, a digital versatile disk (DVD), a magnetic tape (MT), or a portable HDD, and a communication medium for cable or radio communication carrying the program, e.g., when the program is transmitted from a server device to the communication medium by a computer, or the like."

Thus reading the claims in light of the specification the recited computer readable medium encompasses a signal that conveys the computer-executable programs.

According to 35 USC 101 signals are not patentable subject matter and therefore the claims are rejected for the foregoing reasons.

Allowability withdrawn

After further search the indicated allowability of claims 1-10 and 20-22 is withdrawn in view of the newly discovered reference(s) to Suzuki et al. Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 5, 9, 13-14 and 23-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki et al. (7,222,069).

As to claims 1 and 27, Suzuki teaches a code conversion method (Fig.1) of receiving a first code string encoded in a first encoding method and converting the first code string into a second code string comprising:

A first step of receiving a code string, where the code string includes voice codes and noise codes, judging the codes in order to separate them (81) into the respective code converters, where noise sections are determined based on a noise code and voice code are determined based on voice code found in the first code string; a second step of dequantizing the codes according to the result, a third step converting the codes of the audio signal using the respective voice code converter and noise code converter

(82-85) into a second code string different from the first code string and multiplexing the code converted string to a second encoder (Figs.1-3, 20-22, 33; Col.10, line 60-Col.11, line 25)

With respect to claims 5, 9, 28 and 29 the corresponding computer readable medium and code conversion device for performing the steps of converting a first encoded string into a second encoding string as claimed in method claim 1 is analogous and therefore rejected by Suzuki for the foregoing reasons.

As to claims 13-14 and 23-26, Suzuki teaches where the first and the second encoding methods are different but the system is inherently capable of re-encoding the first code string using the same encoding method.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel D. Abebe whose telephone number is 571-272-7615. The examiner can normally be reached on monday-friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Hudspeth can be reached on 571-272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daniel D Abebe/
Primary Examiner, Art Unit 2626